

REMARKS/ARGUMENTS

Claims 1-57 are pending in the above application.

The Office Action dated April 23, 2008, has been received and carefully reviewed. In that Office Action, claims 14-26 and 57 were rejected under 35 U.S.C. 112, second paragraph, as not complying with the enablement requirement, claims 32-54 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter, and claims 1-8, 12-31 and 55-57 were rejected under 35 U.S.C. 102(b) as being anticipated by Wang. Claims 9-11 were rejected as being dependent upon a rejected base claim but were indicated to be allowable if amended to include the limitations of their base claims.

As an initial matter, it is noted that the above 102(e) rejection is stated to be based on Wang, U.S. 6,161,134; however, the patent number listed in the body of the Office Action is that of the previously applied Schtivelman reference. The substance of the Office Action and the lack of any response Applicant's previous arguments distinguishing the claims over Schtivelman suggest that a rejection based on Wang was intended. Clarification is requested if this interpretation is incorrect. Furthermore, it is noted that claims 9-11 are not being rewritten in independent form at this time because it is believed that claim 1 from which these claims depend is allowable in its present form. Each issue raised in that Office Action is addressed below, and reconsideration and allowance of claims 1-8 and 12-57 is respectfully requested in view of the above amendments and following remarks.

REJECTIONS UNDER 35 U.S.C. 112, SECOND PARAGRAPH

Claims 14-26 were rejected under 35 U.S.C. 112, second paragraph, for being

single means claims, and claim 57 was rejected as being a single step claim. By the above amendments, claims 14, 22 and 57 have been revised to address these issues. The withdrawal of the rejections of claims 14-26 and 57 under 35 U.S.C. 112, second paragraph, is respectfully requested in view of these amendments.

REJECTIONS UNDER 35 U.S.C. 101

Claims 32-54 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Specifically, the Office Action indicates that an "article of manufacture" is non-statutory subject matter. It is respectfully submitted that the statute that defines patentable subject matter, 35 U.S.C. 101, which is quoted in the Office Action, lists a "manufacture" as patentable subject matter. "Article of manufacture" is also listed in a discussion of patentable subject matter in MPEP 2107.01. It is therefore respectfully requested that the examiner provide authority for stating that an article of manufacture is not statutory subject matter when such subject matter is explicitly listed in 35 U.S.C. 101.

It is noted that claims 32-54 recite in part, a computer readable medium having computer readable code thereon. This type of subject matter is also patentable as held by the Federal Circuit in *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995) ("computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. Sec. 101 and must be examined under 35 U.S.C. Secs. 102 and 103.") If the examiner is raising an objection to the form of the language used in connection with the claimed computer program embodied in a tangible medium, it is respectfully requested that any such object be explained in greater detail in a further communication so that the basis for the object can be understood.

REJECTIONS UNDER 35 U.S.C. 102(e)

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wang. Claim 1 recites a network device adapted to process a call between the network device and a first other network device. The network device comprises a user interface adapted to receive a user input requesting a call transfer to a second other network device and a call transfer function responsive to the user input to deliver call transfer functionality. Upon receipt of the user input, the call transfer functionality a) initiates a connection from the network device to the second other network device and b) sends a first message to the first other network device containing a reference to the second other network device. Wang discusses Ethernet telephones that communicate over a packet-switched network. Wang appears to teach that a call handled by a first Ethernet telephone can be transferred to a second Ethernet telephone by the user of the first Ethernet telephone. However, it is respectfully submitted that the call transfer disclosed in Wang is different than the call transfer function recited in claim 1, and that claim 1 is allowable over Wang.

The Office Action cited to column 14, lines 41-66, of Wang for a general description of a call transfer function. It is respectfully submitted that additional details of Wang's call transfer functionality are provided at column 36, line 41 to column 37, line 11. Neither of these portions of Wang, however, show the method recited in claim 1. Specifically, neither section of Wang shows at least the action of sending "a first message to a first other network device containing a reference to a second other network device." Instead, Wang discloses a network device having two lines, line 01 and line 02. When a first call is being handled by line 01 of the network device, a

second call can be placed to a second telephone (device 5432 in the Wang patent) using line 02. When first and second calls are connected to the network device, the network device can thereafter send a message "from the first 01 line to the second 02 line" and the "Ethernet telephone 310 then transfers the call from line 01 to the 5432 device 920." In other words, it appears that Wang's network device must participate in the transferred call as long as it is active and that the transferred call must pass through lines 01 and 02 of Wang's network device the entire time the call is active.

Nothing in Wang suggests at least the step of sending a first message to a first other network device containing a reference to the second other network device. Instead, the network device 310 makes the connection between the first and second other network devices, apparently, without sending either device a "reference" to the other. The Office Action refers to column 14, lines 55-66, of Wang to show this limitation. However, this portion of Wang merely indicates that a call is transferred. Therefore, if this rejection is not withdrawn, it is respectfully requested that the examiner explain in greater detail how an element of Wang sends a first message to a first other network device containing a reference to a second other network device as recited in claim 1. At least this limitation of claim 1 is not present in Wang, and claim 1 is submitted to be allowable over Wang for at least this reason.

Claims 2-8 and 13 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Claim 14 recites a network device adapted to process a call between the network device and a first other network device where the network device comprises a call transfer function adapted to participate in a call transfer of the call. This occurs by responding to a first message from the first other network device containing a reference

to a second other network device by establishing a media path with the second other network device. As discussed above in connection with claim 1, Wang does not disclose at least "a first message from the first other network device containing a reference to a second other network device," at column 14, lines 55-66, or elsewhere in the description. Claim 14 is therefore submitted to be allowable over Wang for at least the reasons provided above in connection with claim 1.

Claims 15-21 depend from claim 14 and are submitted to be allowable for at least the same reasons as claim 14.

Claim 22 recites a network device that comprises a call transfer function and that is adapted to participate in a call transfer of a call between a first other network device and a second other network device. After the network device receives a first message from the second other network device initiating a connection between the network device and the second other network device, the network device responds to a second message from the first other network device containing a reference to the second other network device by replacing a connection between the network device and the second other network device with another connection between the network device and the first other network device. Wang does not show or suggest a network device responding to a second message from a first network device containing a reference to the second other network device as recited in claim 22. Claim 22 is submitted to be allowable over Wang for at least this reason.

Claims 23-26 depend from claim 22 and are submitted to be allowable for at least the same reasons as claim 22.

Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Wang. Claim 27 recites a system in a network comprising a plurality network devices on the

network, each network device of the plurality of network devices including a user interface adapted to receive a user input requesting a call transfer and a call transfer function. The call transfer function is adapted to 1) participate in a call transfer of a first call between the network device and a first other network device using local call transfer functionality, the first call being transferred from the network device to a second other network device; 2) participate in a call transfer of a second call between the network device and the first other network device using local call transfer functionality, the second call being transferred from the first other network device to the second other network device, and 3) participate in a call transfer of a third call between the first other network device and the second other network device using local call transfer functionality, the third call being transferred from the first other network device to the network device. The Office Action does not address the above three limitations separately, but instead refers to the same portion of Wang that was cited in connection with claim 1. Wang does not show or suggest at least the above-recited steps, and claim 27 is submitted to be allowable over Wang for at least this reason.

Claims 28-31 depend from claim 27 and are submitted to be allowable for at least the same reasons as claim 27.

Claim 55 recites, in a network device, a method comprising processing a call between the network device and a first other network device. The method includes providing call transfer functionality by initiating a connection from the network device to a second other network device and sending a message to the first other network device containing a reference to the second other network device. Wang does not show at least sending a message to the first other network device containing a reference to the second other network device, and claim 55 is submitted to be allowable over Wang for

this reason.

Claim 56 recites a method comprising processing a call between the network device and a first other network device and participating in a call transfer of the call by responding to a first message from the first other network device containing a reference to a second other network device by establishing a media path with the second other network device. Wang does not show at least responding to a first message from the first other network device containing a reference to a second other network device by establishing a media path with the second other network device, and claim 56 is submitted to be allowable over Wang for at least this reason.

Claim 57 recites a method that includes participating in a call transfer of a call between a first other network device and a second other network device by, after receiving to a first message from the second other network device initiating a connection between the network device and the second other network device, responding to a second message from the first other network device containing a reference to the second other network device by replacing the connection between the network device and the second other network device with an other connection between the network device and the first other network device. Wang does not show at least initiating a connection between a network device and a second other network device and responding to a second message from the first other network device containing a reference to the second other network device by replacing the connection between the network device and the second other network device with an other connection between the network device and the first other network device. Claim 57 is submitted to be allowable over Wang for at least this reason.

Independent claims 1, 14, 22, 27 and 55-57 are each rejected under 35 U.S.C.

102(e) as being anticipated by Wang. Each of these claims recite a network device, a first other network device and a second other network device. Some claim limitations refer to messages from one network device containing a reference to a second network device. If all rejections based on Wang are not withdrawn, it is respectfully requested that the examiner identify the elements in Wang that are being interpreted as corresponding to each of the recited 1) network device 2) first other network device and 3) second other network device. In addition, it is respectfully requested that the examiner explain how messages from a first other network device containing a reference to a second other network device (and the other specific limitations of each of the independent claims) are shown. As discussed above, it is not believed that these claim limitations are met by Wang and therefore at least claims 1, 14, 22, 27 and 55-57 and their dependent claims are submitted to be allowable over Wang.

CONCLUSION

Each issue raised in the Office Action dated April 23, 2008, has been addressed, and it is believed that claims 1-57 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is respectfully requested.

If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott L. Lowe", is written over a horizontal line.

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